

## Official Title and Summary

Prepared by the Attorney General

### REDISTRICTING. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Amends process for redistricting California’s Senate, Assembly, Congressional and Board of Equalization districts.
- Requires panel of three retired judges, selected by legislative leaders, to adopt new redistricting plan if measure passes and after each national census.
- Panel must consider legislative, public comments/hold public hearings.
- Redistricting plan effective when adopted by panel and filed with Secretary of State; governs next statewide primary/general elections even if voters reject plan.
- If voters reject redistricting plan, process repeats, but officials elected under rejected plan serve full terms.
- Allows 45 days to seek judicial review of adopted redistricting plan.

### SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- One-time costs for a redistricting plan. State costs totaling no more than \$1.5 million and county costs in the range of \$1 million.
- Potential reduction in costs for each redistricting effort after 2010, but net impact would depend on decisions by voters.

### ANALYSIS BY THE LEGISLATIVE ANALYST

#### BACKGROUND

Every ten years, the federal census counts the number of people living in California. The California Constitution requires the Legislature after each census to adjust the boundaries of the districts used to elect public officials. This process is called “redistricting” (or sometimes “reapportionment”). The primary purpose of redistricting is to establish districts which are “reasonably equal” in population. Redistricting affects districts for the state Legislature (Assembly and Senate), Board of Equalization (BOE), and the U.S. House of Representatives.

Typically, redistricting plans are included in legislation and become law after passage of the bill by the Legislature and signature by the Governor. In the past, when the Legislature and Governor have been unable to agree on redistricting plans, the California Supreme Court oversaw the redistricting.

#### PROPOSAL

This measure amends the California Constitution to change the redistricting process for the state Legislature, BOE, and California members of the U.S. House of Representatives.

**Panel of Retired Judges.** This measure requires that a three-member panel of retired federal and/or state judges (“special masters”) develop redistricting plans. The measure requires that the judges meet a number of criteria, including that they have never held partisan political office. (The nearby box provides more detail on the selection process for the special masters.)

**Requirements of District Boundaries.** The measure adds new requirements regarding the drawing of district boundaries. Among these requirements are:

- For the Legislature and BOE, population differences among districts cannot exceed 1 percent.
- Senate districts must be comprised of two adjacent Assembly districts, and BOE districts must be comprised of ten adjacent Senate districts.
- The plan must minimize the splitting of counties and cities into multiple districts.

In addition, when drawing boundaries, the panel could not consider information related to political party affiliations and other specified matters.

**Schedule.** A panel would be required to develop a redistricting plan for use at the next primary and general elections following the measure’s approval and then following each future federal census.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

**Approval Process.** In developing a plan, the panel would have to hold public hearings and could receive suggested plans from the public and the Legislature. Once the panel unanimously approves a redistricting plan, the plan would be used for the next primary and general elections. The Secretary of State would place the plan on the general election ballot for the voters to consider. If the voters approve the plan, it would be used until the next redistricting is required. If the voters reject the plan, another panel would be appointed to prepare a new plan for the next primary and general elections.

**Funding.** The measure specifies that the Legislature must make funding available from the Legislature’s budget (which is limited under the State Constitution) to support the work of the panel.

MAJOR STEPS TO SELECT REDISTRICTING PANEL UNDER PROPOSITION 77
<p>1. Judicial Council (an administrative body of the court system) collects list of retired judges willing to serve on a panel. The judges must not have:</p> <ul style="list-style-type: none"> <li>• Held partisan political office.</li> <li>• Changed their party affiliation since their judicial appointment.</li> <li>• Received income over the past year from specified political sources.</li> </ul>
<p>2. Judicial Council randomly selects a pool of 24 judges from the list of volunteers. The two largest political parties must have equal representation.</p>
<p>3. The four legislative leaders (two each from the majority and minority parties) nominate a total of 12 judges from the pool. The leaders each nominate three judges with party affiliations different than their own. Each leader is then able to eliminate one of the nominated judges.</p>
<p>4. From the nominated judges remaining on the list, three judges are selected at random to serve as the panel. Each of the two largest political parties must have at least one representative.</p>
<p>5. The selected judges pledge, in writing, to not run for offices affected by the districts they draw or accept public jobs (other than judicial or teaching) for the next five years.</p>

This could include employment of legal and other experts in the field of redistricting and computer technology. Funding for the panel would be limited to a maximum of one-half of the amount spent by the Legislature on redistricting in 2001 (adjusted for inflation beginning after the 2010 federal census). For the first redistricting plan under the measure (to be developed for use at the next primary and general elections following the measure’s approval), the funding would be provided from the state General Fund.

FISCAL EFFECTS

**Panel Allowable Costs.** The Legislature spent about \$3 million in 2001 on redistricting. This measure would limit panel costs for future redistricting efforts to half of this amount, adjusted for inflation. Therefore, the maximum amount allowable under the measure for each future panel would be about \$1.5 million.

**One-Time Redistricting Costs.** Under existing law, the next redistricting plan would not be developed until after the 2010 federal census. The measure, however, requires that a redistricting plan be developed for use at the next primary election following the measure’s approval. This additional redistricting plan would result in one-time state costs, which would total no more than \$1.5 million for the panel’s work. In addition, counties would experience some added one-time costs to implement the new district boundaries. These costs could be in the range of \$1 million.

**Impact on Future Redistricting Costs.** The preparation of future redistricting plans (after 2010) under the measure would be on the same schedule as existing law. Due to the measure’s limit on a panel’s redistricting costs, there could be a reduction in the total amount the state spent for each redistricting effort. Any such savings would be available for other legislative expenses under the existing cap. If, however, voters rejected any redistricting plan, there would be some additional state and county costs for a new plan to be developed and implemented. Thus, the net impact on future redistricting costs in any decade would depend on decisions by voters.

**Election Costs.** Because the measure requires the redistricting plans to be approved by voters, it would result in costs to the state and counties each time a plan was placed on the ballot. These costs primarily would be related to preparing and mailing election-related materials. Since the approval of the plans could be consolidated with existing elections, the increased costs of the measure would probably be minor.

## Argument in Favor of Proposition 77

THE TIME FOR ACCOUNTABILITY IS NOW!

PROPOSITION 77: “THE VOTER EMPOWERMENT ACT” WILL FINALLY MAKE POLITICIANS ACCOUNTABLE TO THE PEOPLE.

- Guarantee fair election districts for Californians.
- Give voters the final say in the process.
- Reduce special interest influence and money in politics.

YES on Prop. 77: Let the Voters Decide.

The Problem: California’s flawed election system allows partisan politicians to draw the boundary lines of their own districts—splitting up towns and even neighborhoods for personal gain. The result: there is no accountability because the incumbents rig the districts to ensure they have NO serious competition, guaranteed re-election, and are NOT accountable to voters.

It used to be that voters picked their politicians—now politicians pick their voters. And that’s NOT FAIR.

“California lawmakers are so adept at designing their own districts that of the 153 seats—80 Assembly, 20 state Senate, 53 Congressional—theoretically up for grabs last November (2004), not a single one switched parties.”

*Wall Street Journal, March 11, 2005*

When politicians are not accountable to voters, they become accountable only to their special interest campaign contributors.

That’s why we still have record deficits, unbalanced budgets, out of control spending, and calls for higher taxes, year after year.

Wouldn’t it be better if legislators would work to improve education, cut wasteful government spending, eliminate bureaucracy, and balance the budget once and for all? But that won’t happen until our elected officials start paying attention to us. Under the current system, they only pay attention to their campaign contributors. It’s time for a change.

Prop. 77—The Bipartisan Voter Empowerment Solution

1. Voters will be able to vote on the new redistricting plan. That gives the people of California more power and the special interests less.
2. To ensure district lines that are competitive and fair, a panel of retired judges—selected through a bipartisan process with no political agenda—will draw new district lines according to strict guidelines.
3. Voters then may approve or reject the lines. That puts us, Californians, in charge of our elections.
4. Neighborhoods and communities will matter again. Incumbents will no longer be able to draw their own districts, splitting up towns and neighborhoods in an effort to guarantee their own re-election.

Prop. 77 IS A COMMON SENSE, BIPARTISAN SOLUTION THAT WILL:

- Guarantee fair, competitive elections for California voters.
- Give voters the final say in the process.
- Hold the politicians accountable.
- Reduce the influence of political money.

Now is the time. After many years of opposing reform, overspending, and gridlock, legislative leaders of both parties finally admitted, this year, that redistricting reform is necessary—that allowing politicians to draw their own districts is a conflict of interest that must be changed.

The opportunity is now. PLEASE JOIN US IN VOTING YES ON PROP. 77 TO:

- HOLD THE POLITICIANS ACCOUNTABLE!
- CLEAN UP SACRAMENTO.
- REDUCE PARTISAN POLITICS.
- RETURN ELECTORAL CONTROL TO THE PEOPLE.

**EDWARD J. “TED” COSTA**, CEO

People’s Advocate

**ARNOLD SCHWARZENEGGER**, Governor

State of California

**JOHN A. ARGUELLES**

Former California Supreme Court Justice

## Rebuttal to Argument in Favor of Proposition 77

The people behind Prop. 77 want you to believe it will make things better.

*Don’t be fooled!*

Special interests spent millions of dollars to force a special election and put this loophole-ridden redistricting scheme on the ballot.

In fact, two courts and three judges have already ruled that this measure shouldn’t even be on the ballot. They ruled that proponents broke the law in a rush to have a new redistricting and reapportionment 5 years earlier than normal.

This flawed plan won’t make politicians more accountable . . . they pick the judges!

*Read the fine print.*

- 1) PROP. 77 TAKES AWAY THE RIGHT OF VOTERS to reject redistricting plans *before* they go into effect.
- 2) The so-called *independent* redistricting judges are HAND-PICKED BY POLITICIANS.
- 3) Every time voters reject these redistricting plans, IT WILL COST TAXPAYERS MILLIONS.

- 4) Everything is decided by a small panel of ONLY THREE UNELECTED JUDGES.
- 5) This flawed idea is CEMENTED INTO OUR CONSTITUTION.

Politicians have tried to sneak redistricting schemes past voters four times in the last 25 years. VOTERS SAID NO . . . all four times.

Instead of putting up a straight-forward plan that makes sense, they offer us this unfair and undemocratic redistricting measure.

Vote NO on Prop. 77. It can only make things worse.

[www.NoOnProposition77.com](http://www.NoOnProposition77.com)

**DANIEL H. LOWENSTEIN**, Former Chair

Fair Political Practices Commission

**DEBORAH BURGER**, President

California Nurses Association

**HENRY L. “HANK” LACAYO**, State President

Congress of California Seniors

## Argument Against Proposition 77

### *Proposition 77 Makes Things Worse*

Every time they don't get their way, politicians cook up new schemes to change the rules. They've tried sneaking redistricting schemes past voters four times over the last 25 years, and each time, **VOTERS SAID NO!**

This time, their plan will cost taxpayers millions, and three judges and two courts have ruled it was illegally qualified for the ballot.

Don't be fooled! *Read the fine print.* This undemocratic and unfair redistricting scheme has huge loopholes.

### **BIG FLAWS:**

- 1) **VOTERS LOSE THEIR RIGHT** to reject redistricting plans before they go into effect.
- 2) **POLITICIANS SELECT THE JUDGES** to draw their districts for them.
- 3) Prop. 77 **COSTS TAXPAYERS MILLIONS** each time they reject redistricting plans.
- 4) Only 3 **UNELECTED JUDGES WILL DECIDE EVERYTHING.** That's not fair or balanced.
- 5) This unworkable scheme will be **CEMENTED INTO OUR CONSTITUTION!**

### **PLANS TAKE EFFECT WITHOUT VOTER APPROVAL**

Redistricting plans made from Prop. 77 automatically go into effect **WITH NO APPROVAL FROM VOTERS.** That's backwards. Voters should approve plans **BEFORE** they take effect, not afterward. By the time voters have a say, the damage is done. Why won't they let voters approve the plans first?

### **POLITICIANS STILL IN CONTROL**

Under Prop. 77, politicians in the Legislature choose the judges to draw their political districts. Politicians get the best of both worlds—they still pick their voters and now they can hide behind judges. There's no accountability!

### **REQUIRES MULTIPLE COSTLY ELECTIONS**

If voters reject redistricting plans, the entire process starts over—new judges, new plans, more elections, and more political bickering—wasting millions of tax

dollars. This could go on indefinitely . . . with election after election . . . until voters finally approve . . . all at **TAXPAYER EXPENSE!**

### **GIVES TOO MUCH POWER TO JUST 3 UNACCOUNTABLE JUDGES**

This redistricting scheme gives too much power to three retired judges to decide the future of 35 million Californians. These unelected judges have nothing to fear by upsetting the will of the voters.

### **NOT THE WAY TO CHANGE OUR CONSTITUTION**

Prop. 77 changes our Constitution. But the Constitution is not a place to experiment with California's future. They're playing political games with a sacred document.

### **MOST AREAS OF THE STATE UNREPRESENTED**

Under Prop. 77, all three judges could be from the same area. That's not fair. For example, three Northern California judges could break up Southern California communities, or vice versa. Central Valley voters could have no redistricting panel representation at all!

What effect would this have on regional issues like **WATER RIGHTS** and **TRANSPORTATION FUNDING?**

### **WHY NOW? WHAT'S THEIR MOTIVE?**

Redistricting isn't scheduled to occur until 2011, after the Census gives an update on California's population. Instead, special interests spent millions of dollars to rush this strange plan onto the special election ballot. What's their motive?

*We do need to reform our government, but Prop. 77 isn't the answer.*

**VOTE NO ON PROP. 77. IT WON'T MAKE ANYTHING BETTER.**

*www.NoOnProposition77.com*

**DANIEL H. LOWENSTEIN**, Former Chair  
Fair Political Practices Commission

**JUDGE GEORGE H. ZENOVICH**, Associate Justice Retired  
5th District Court of Appeal

**HENRY L. "HANK" LACAYO**, State President  
Congress of California Seniors

## Rebuttal to Argument Against Proposition 77

*Opponents of Prop. 77, the "Voter Empowerment Act," are desperate to protect entrenched politicians and the status quo. They have historically fought to prevent voters' voices from being heard, even trying to keep Prop. 77 off the ballot this year!*

**PROP. 77 WILL RETURN POWER TO THE VOTERS, AWAY FROM POLITICIANS AND SPECIAL INTERESTS WHO CURRENTLY CONTROL OUR UNFAIR ELECTION SYSTEM—IT GIVES VOTERS THE FINAL SAY.**

When politicians are virtually guaranteed to win elections, they are not accountable to voters. Prop. 77 fixes this problem and improves California's election system—ensuring all voters are fairly represented.

*Beware of the smokescreen arguments by opponents of Prop. 77. Remember these important facts:*

- Opponents don't want competitive elections. They like the status quo and will do anything to protect their power.
- They want the politicians to continue protecting their special interests at the expense of California's working families.

- Voter approval of redistricting plans will be held at regularly scheduled elections, so opponents' claims of huge election costs are false.

*Prop. 77 is simple and straightforward:*

- A bipartisan panel of retired judges would establish new, fair district boundaries for the Legislature and Congress.
- They want the politicians to continue protecting their special interests at the expense of California's working families.
- Fair districts mean competitive elections.

Competitive elections ensure our elected officials listen to citizen voices and not just campaign contributors.

*Nothing could be fairer than letting voters have the final word!*

**"YES" ON PROP. 77—IT'S ABOUT RETURNING POWER TO THE PEOPLE**

**JOHN KEHOE**, Policy Director  
California Senior Advocates League

**JULIE VANDERMOST**, President  
California Women's Leadership Association

**NATIVO LOPEZ**, President  
Mexican American Political Association



# TEXT OF PROPOSED LAWS (PROPOSITION 76 CONTINUED)

(†)

(A) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(2)

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(2) (A) *The total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund because of a suspension pursuant to this subdivision shall be repaid to the Transportation Investment Fund no later than June 30, 2022. Until that total amount has been repaid, the amount of that repayment to be made in each fiscal year shall not be less than one-fifteenth of the total amount due.*

(B) *The Legislature may provide by statute for the issuance of bonds by the State or local agencies, as applicable, that are secured by the payments required by this paragraph. Proceeds of the sale of the bonds shall be applied for purposes consistent with this article, and for costs associated with the issuance and sale of the bonds.*

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

SECTION 10. Section 6 of Article XIII B of the California Constitution is amended to read:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law. *In the event payment of a mandate is suspended in whole or in part by the Governor pursuant to paragraph (2) of subdivision (g) of Section 10 of Article IV, the operation of the mandate is suspended for the fiscal year in which payment is suspended.*

(2) Payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year ~~may~~ shall be paid over a term of *not more than 5 years*, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

## SECTION 11. Conflicting Ballot Measures

In the event that this measure and another measure or measures relating to the appropriation, allocation, classification, and expenditure of state revenues for support of state government and education shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

## SECTION 12. Severability

If any provisions of this act, or part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions are severable.

## PROPOSITION 77

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

### REDISTRICTING REFORM: THE VOTER EMPOWERMENT ACT

#### SECTION 1. Findings and Declarations of Purpose

The People of the State of California find and declare that:

(a) Our Legislature should be responsive to the demands of the citizens of the State of California, and not the self-interest of individual legislators or the partisan interests of political parties.

(b) Self-interest and partisan gerrymandering have resulted in uncompetitive districts, ideological polarization in our institutions of representative democracy, and a disconnect between the interests of the People of California and their elected representatives.

(c) The redistricting plans adopted by the California Legislature in 2001 serve incumbents, not the People, are repugnant to the People, and are in direct opposition to the People's interest in fair and competitive elections. They should not be used again.

(d) We demand that our representative system of government be fair to all, open to public scrutiny, free of conflicts of interest, and dedicated

to the principle that government derives its power from the consent of the governed. Therefore, the People of the State of California hereby adopt the “Redistricting Reform: The Voter Empowerment Act.”

#### SECTION 2. Fair Redistricting

Article XXI of the California Constitution is amended to read:

SECTION 1. (a) *Except as provided in subdivision (b), in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, a panel of Special Masters composed of retired judges shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in accordance with the standards and provisions of this article.*

(b) *Within 20 days following the effective date of this section, the Legislature shall appoint, pursuant to the provisions of paragraph (2) of subdivision (c), a panel of Special Masters to adopt a plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts for use in the next set of statewide primary and general elections and until the next adjustment of boundary lines is required pursuant to subdivisions (a) or (i). The panel shall establish a schedule and deadlines to ensure timely adoption of the plan. Except for paragraph (1) of subdivision (c), all provisions of this article shall apply to the adoption of the plan required by this subdivision.*

(c) (1) *Except as provided in subdivision (b), on or before January 15 of the year following the year in which the national census*

## TEXT OF PROPOSED LAWS (PROPOSITION 77 CONTINUED)

is taken, the Legislature shall appoint, pursuant to the provisions of paragraph (2) of subdivision (c), a panel of Special Masters composed of retired judges to adopt a plan of redistricting adjusting the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts pursuant to this article.

(2) (A) In sufficient time to allow the appointment of the Special Masters, the Judicial Council shall nominate by lot 24 retired judges willing to serve as Special Masters. Only retired California state or federal judges, who have never held elected partisan public office or political party office, have not changed their party affiliation, as declared on their voter registration affidavit, since their initial appointment or election to judicial office, and have not received income during the past 12 months from the Legislature, a committee thereof, the United States Congress, a committee thereof, a political party, or a partisan candidate or committee controlled by such candidate, are qualified to serve as Special Master. Not more than 12 of the 24 retired judges may be of a single party affiliation, and the two largest political parties in California shall be equally represented among the nominated retired judges.

(B) A retired judge selected to serve as a Special Master shall also pledge, in writing, that he or she will not run for election in the Senatorial, Assembly, Congressional, or Board of Equalization districts adjusted by him or her pursuant to this article nor accept, for at least five years from the date of appointment as a Special Master, California state public employment or public office, other than judicial employment or judicial office or a teaching position.

(C) From the pool of retired judges nominated by the Judicial Council, the Speaker of the Assembly, the Minority Leader of the Assembly, the President pro Tempore of the Senate, and the Minority Leader of the Senate shall each nominate, no later than five days before the deadline for appointment of the panel of Special Masters, three retired judges, who are not registered members of the same political party as that of the legislator making the nomination. No retired judge may be nominated by more than one legislator.

(D) If, for any reason, any of the aforementioned legislative leadership fails to nominate the requisite number of retired judges within the time period specified herein, the Chief Clerk of the Assembly shall immediately draw, by lot, that legislator's remaining nominees in accordance with the requirements of subparagraph (C) of paragraph (2) of subdivision (c).

(E) No later than three days before the deadline for appointment of the panel of Special Masters, each legislator authorized to nominate a retired judge shall also be entitled to exercise a single peremptory challenge striking the name of any nominee of any other legislator.

(F) From the list of remaining nominees selected by said legislative leadership, the Chief Clerk of the Assembly shall then draw, by lot, three persons to serve as Special Masters. If the drawing fails to produce at least one Special Master from each of the two largest political parties, the drawing shall be conducted again until this requirement is met. If the drawing is unable to produce at least one Special Master from each of the two largest political parties, the drawing for the Special Master from the political party not represented from the list of remaining nominees shall be made from the original pool of 24 retired judges nominated by the Judicial Council, except that no retired judge whose name was struck pursuant to subparagraph (E) of paragraph (2) of subdivision (c) may be appointed. In the event of a vacancy in the panel of Special Masters, the Chief Clerk shall immediately thereafter draw, by lot, from the list of remaining nominees selected by said legislative leadership, or the original pool of 24 retired judges, if necessary, except for those whose names were struck, a replacement who satisfies the composition requirements for the panel under this subdivision.

(d) Each Special Master shall be compensated at the same rate for each day engaged in official duties and reimbursed for actual and necessary expenses, including travel expenses, in the same manner as a member of the California Citizens Compensation Commission pursuant to subdivision (j) of Section 8 of Article III. The Special Masters' term of office shall expire upon approval or rejection of a plan pursuant to subdivision (h).

(e) Each Special Master shall be subject to the same restrictions on gifts as imposed on a retired judge of the superior court serving in the assigned judges program, and shall file a statement of economic

interest, or any successor document, to the same extent and in the same manner as such a retired judge.

(f) (1) Public notice shall be given of all meetings of the Special Masters, and the Special Masters shall be deemed a state body subject to the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), or any successor act, as amended from time to time; provided that all meetings and sessions of the Special Masters shall be recorded. The Special Masters shall establish procedures that restrict ex parte communications from members of the public and the Legislature concerning the merits of any redistricting plan.

(2) The panel of Special Masters shall establish and publish a schedule to receive and consider proposed redistricting plans and public comment from any member of the Legislature or public. The panel of Special Masters shall hold at least three public hearings throughout the state to consider redistricting plans. At least one such hearing shall be held after the Special Masters have submitted their proposed redistricting plan pursuant to paragraph (3) of subdivision (f), but before adoption of the final plan.

(3) Before the adoption of a final redistricting plan, the Special Masters shall submit their plan to the Legislature for an opportunity to comment within the time set by the Special Masters. The Special Masters shall address in writing each change to their plan that is recommended by the Legislature and incorporated into the plan.

(g) The final redistricting plan shall be approved by a single resolution adopted unanimously by the Special Masters and shall become effective upon its filing with the Secretary of State for use at the next statewide primary and general elections, and, if adopted by initiative pursuant to subdivision (h), for succeeding elections until the next adjustment of boundaries is required pursuant to this article.

(h) The Secretary of State shall submit the final redistricting plan as if it were proposed as an initiative statute under Section 8 of Article II at the same next general election provided for under subdivision (g) for approval or rejection by the voters for use in succeeding elections until the next adjustment of boundaries is required. The ballot title shall read: "Shall the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts adopted by Special Masters as required by Article XXI of the California Constitution, and used for this election, be used until the next constitutionally required adjustment of the boundaries?"

(i) If the redistricting plan is approved by the voters pursuant to subdivision (h), it shall be used in succeeding elections until the next adjustment of boundaries is required. If the plan is rejected by the voters pursuant to subdivision (h), a new panel of Special Masters shall be appointed within 90 days in the manner provided in paragraph (2) of subdivision (c), for the purpose of proposing a new plan for the next statewide primary and general elections pursuant to this article. Any officials elected under a final redistricting plan shall serve out their term of office notwithstanding the voters' disapproval of the plan for use in succeeding primary and general elections.

(j) The Legislature shall make such appropriations from the Legislature's operating budget, as limited by Section 7.5 of Article IV, as necessary to provide the panel of Special Masters with equipment, office space, and necessary personnel, including counsel and independent experts in the field of redistricting and computer technology, to assist them in their work. The Legislative Analyst shall determine the maximum amount of the appropriation, based on one-half the amount expended by the Legislature in creating plans in 2001, adjusted by the California Consumer Price Index. For purposes of the plan of redistricting under subdivision (b) only, there is hereby appropriated to the panel of Special Masters from the General Fund of the State during the fiscal year in which the panel performs its responsibilities a sum equal to one-half the amount expended by the Legislature in creating plans in 2001. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. For purposes of all plans of redistricting under subdivision (a), until appropriations are made, the Legislative Analyst's Office, or any successor thereto, shall furnish, from existing resources, staff and services to the panel as needed for the performance of its duties.

# TEXT OF PROPOSED LAWS (PROPOSITION 77 CONTINUED)

(k) Except for judicial decrees, the provisions of this article are the exclusive means of adjusting the boundary lines of the districts specified herein.

Section 2. (a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district. Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(b) The population of all districts of a particular type shall be as nearly equal as practicable. For congressional districts, the maximum population deviation between districts shall not exceed federal constitutional standards. For state legislative and Board of Equalization districts, the maximum population deviation between districts of the same type shall not exceed one percent or any stricter standard required by federal law.

(c) Districts shall comply with any additional requirements of the United States Constitution and any applicable federal statute, including the federal Voting Rights Act.

(d) Each Board of Equalization district shall be comprised of 10 adjacent Senate districts and each Senate district shall be comprised of two adjacent Assembly districts.

(e) Every district shall be contiguous.

(f) District boundaries shall conform to the geographic boundaries of a county, city, or city and county to the greatest extent practicable. In this regard, a redistricting plan shall comply with these criteria in the following order of importance: (1) create the most whole counties possible, (2) create the fewest county fragments possible, (3) create the most whole cities possible, and (4) create the fewest city fragments possible, except as necessary to comply with the requirements of the preceding subdivisions of this section.

(g) Every district shall be as compact as practicable except to the extent necessary to comply with the requirements of the preceding subdivisions of this section. With regard to compactness, to the extent practicable a contiguous area of population shall not be bypassed to incorporate an area of population more distant.

(h) No census block shall be fragmented unless required to satisfy the requirements of the United States Constitution.

(i) No consideration shall be given as to the potential effects on incumbents or political parties. No data regarding the residence of an incumbent or of any other candidate or the party affiliation or voting history of electors may be used in the preparation of plans, except as required by federal law.

Section 3. Any action or proceeding alleging that a plan adopted by the Special Masters does not conform with the requirements of this article must be filed within 45 days of the filing of the plan with

the Secretary of State or such action or proceeding is forever barred. Judicial review of the conformity of any plan with the requirements of this article may be pursuant to a petition for extraordinary relief. If any court finds a plan to be in violation of this article, it may order that a new plan be adopted by a panel of Special Masters pursuant to this article. A court may order any remedy necessary to effectuate this article.

In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.

## SECTION 3. Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, including, but not limited to, subdivision (b) of Section 1 of Article XXI, that invalidity shall not affect other provisions or applications which can reasonably be given effect in the absence of the invalid provision or application.

## SECTION 4. Conflicting Ballot Measures

(a) In the event that this measure and another measure or measures relating to the redistricting of Senatorial, Assembly, Congressional, or Board of Equalization districts is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and said other measure or measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

## PROPOSITION 78

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

### SECTION 1. FINDINGS AND DECLARATION OF PURPOSE

The people of the State of California do hereby find and declare that:

(a) Prescription drugs are an integral part to managing acute and chronic illness improving quality of life; and

(b) Prescription drugs are a convenient, cost-effective alternative to more costly medical interventions; and

(c) Increasing the affordability and access of prescription medicines will significantly improve health care quality and lower overall health care costs.

### SEC. 2. CALIFORNIA STATE PHARMACY ASSISTANCE PROGRAM (CAL RX)

Division 112 (commencing with Section 130600) is added to the Health and Safety Code, to read:

## DIVISION 112. CALIFORNIA STATE PHARMACY ASSISTANCE PROGRAM (CAL RX)

### CHAPTER 1. GENERAL PROVISIONS

130600. This division shall be known, and may be cited, as the California State Pharmacy Assistance Program or Cal Rx.

130601. For the purposes of this division, the following definitions shall apply:

(a) “Benchmark price” means the price for an individual drug or aggregate price for a group of drugs offered by a manufacturer equal to the lowest commercial price for the individual drug or group of drugs.

(b) “Cal Rx” means the California State Pharmacy Assistance Program.

(c) “Department” means the State Department of Health Services.

(d) “Fund” means the California State Pharmacy Assistance Program Fund.

(e) “Inpatient” means a person who has been admitted to a hospital for observation, diagnosis, or treatment and who is expected to remain overnight or longer.

(f) (1) “Lowest commercial price” means the lowest purchase price for an individual drug, including all discounts, rebates, or free goods, available to any wholesale or retail commercial class of trade in California.